

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 39

Witness: Ralph Bowling

The request for information and response contain confidential and proprietary information which is submitted under seal pursuant to a Petition for Confidential Treatment dated March 6, 2008.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 40

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 41

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 42

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 43

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 44

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 45

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 46

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 47

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 48

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 49

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 50

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 51

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 52

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 53

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 54

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 55

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 56

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 57

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 58

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 59

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 60

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 61

Witness: Counsel / Paul Thompson

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 62

Witness: Counsel / Paul Thompson

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 63

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 64

Witness: Ralph Bowling

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E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 65

Witness: Counsel / Paul Thompson

- Q-65. Please reference the Response to OAG 87. Please provide a responsive answer and do so by stating actual dollars.
- A-65. This request seeks information (i.e., estimated present value of these unfavorable financial results through 2023) which is presently available to the OAG because it can be reasonably calculated from the information provided in the response to these data requests or is otherwise in the record of this proceeding.

The estimated present value of the unfavorable financial results through 2023 is information that is confidential and proprietary; that is protected from disclosure by the privilege of critical self-analysis or is otherwise privileged; and that is the property of unregulated entities (rather than utilities) whose financial affairs and internal analyses are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal analyses and business strategy of E.ON U.S. LLC's unregulated businesses have no relevance to this inquiry. Disclosure of this information would allow the OAG to then negotiate against E.ON US through this regulatory proceeding based on E.ON's own strategy and analysis.

Without waiving this objection, E.ON states that under existing Lease and Power Contracts, the operating costs have essentially outpaced the fixed contract prices that WKE/LEM can charge Big Rivers and the Smelters, thereby making the "set of contracts" "uneconomic". The changes in operating costs include fuel, capital, operation and maintenance and environmental compliance.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 66

Witness: Counsel

Q-66. Please reference the Response to OAG 88. Please provide a responsive answer and do not reference to another question where a non-responsive answer was provided.

A-66. OAG Request 1-88 seeks "any and all internal E.ON documents which address the subject of the existing agreements which are the subject of the "Unwind Transaction" and "Termination Transaction, including any financial analysis and strategic analyses." The Joint Application contains the relevant supporting documents, and financial and strategic analysis for the "Unwind Transaction" that are necessary to evaluate that transaction. "[A]ny and all internal E.ON documents which address the existing agreements" are not relevant to the whether the proposed transaction is in the public interest.

E.ON objects to this request on the basis that it is overbroad and unduly burdensome, requiring research with regard to documents prepared over more than a five year period. In addition, the request concerns documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 67

Witness: Counsel

Q-67. Please reference the Response to OAG 89. Please provide a responsive answer and do not reference to another question where a non-responsive answer was provided.

A-67. E.ON objects to this request on the basis that it is overbroad and unduly burdensome, requiring research with regard to documents prepared over more than a five year period. In addition, the request concerns documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 68

Witness: Counsel

- Q-68. Please reference the Response to OAG 91. Please provide a responsive answer and do not reference to another question where a non-responsive answer was provided.
- A-68. E.ON objects to this request on the basis that it is overbroad and unduly burdensome, requiring research with regard to documents prepared over more than a five year period. In addition, the request concerns documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 69

Witness: Counsel / Paul Thompson / David Sinclair

- Q-69. Please reference the Response to OAG 94. Please provide a responsive answer.
- a. In addition, please describe in detail, including actual dollar amounts, the “uncertain and unfavorable financial results through 2023” to which E.ON refers in this answer.

A-69. OAG No. 94 requested a statement of each material fact which prevents E.ON from electing to continue its present mode of operation, including provision of power to Big Rivers under the existing Lease Agreement and Purchase Power Agreement.

EON's response to OAG 94 stated:

The material facts which prevent E.ON U.S. LLC from electing to continue its present mode of operation, including provision of power to Big Rivers under the existing Lease Agreement and Purchase Power Agreement are described at page 18 of Mr. Thompson's testimony (i.e., the performance of an uneconomic set of contracts and their associated exposure of E.ON U.S. LLC to uncertain and unfavorable financial results through 2023).

Please also see the response to OAG Supplemental Request No. 65.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
Dated February 27, 2008**

Case No. 2007-00455

Question No. 70

Witness: Counsel / Paul Thompson / David Sinclair

- Q-70. Please reference the Response to OAG 95. Please provide a responsive answer.
- a. In addition, please describe in detail, including actual dollar amounts, the “uncertain and unfavorable financial results through 2023” to which E.ON refers in this answer.
- A-70. Please see the response to OAG Supplemental No 69.

E.ON U.S. LLC

Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 71

Witness: Valerie Scott

- Q-71. Please reference the Response to OAG 97, E.ON AG, Form 6-K, August 15, 2007 Interim Report at page 50 where the following statements occur. "Under IFRS, E.ON is required to report under discontinued operations those operations of a reportable or operating segment, or of a component thereof, which either have been disposed of or are classified as held for sale. **In the first six months of 2007, this applied to WKE, which is held for sale.**" (Emphasis added.)
- a. Regarding these statements, does IFRS allow the stated required reporting if a regulatory agency has not approved the sale?
 - b. If not, please explain why E.ON AG made the reporting.
 - c. If the unwind is not approved by the Commission, are there any ramifications or changes in the manner which the reporting is done?
 - d. If yes, please describe same in detail.
- A-71. a. Yes. International Financial Reporting Standards ("IFRS") 5, *Non-Current Assets Held for Sale and Discontinued Operations*, paragraphs 6-8 state, "An entity shall classify a non-current asset (or disposal group) as held for sale if its carrying amount will be recovered principally through a sale transaction rather than through continuing use. For this to be the case, the asset (or disposal group) must be available for immediate sale in its present condition subject only to terms that are usual and customary for sales of such assets (or disposal groups) and its sale must be highly probable. For the sale to be highly probable, the appropriate level of management must be committed to a plan to sell the asset (or disposal group), and an active program to locate a buyer and complete the plan must have been initiated. Further, the asset (or disposal group) must be actively marketed for sale at a price that is reasonable in relation to its current fair value.

In addition, the sale should be expected to qualify for recognition as a completed sale within one year from the date of classification, except as permitted by paragraph 9, and actions required to complete the plan should indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn.”

IFRS 5, paragraph 9 states “events or circumstances may extend the period to complete the sale beyond one year. An extension of the period required to complete a sale does not preclude an asset (or disposal group) from being classified as held for sale if the delay is caused by events or circumstances beyond the entity’s control and there is sufficient evidence that the entity remains committed to its plan to sell the asset (or disposal group).”

Since regulatory approval of the sale is a term that is “usual and customary for sales of such assets”, such approval does not need to be obtained in order for the operations and assets of WKE to be classified as discontinued.

- b. Not applicable.
- c. Yes. The manner of reporting the operations and assets of WKE will change if regulatory approval is not obtained.
- d. If the unwind is not approved by the Commission or terms cannot be agreed with the various parties to the transaction, there would be “significant changes to the plan” as stated in IFRS 5, which likely would result in the operations of WKE being reclassified into continuing operations for all periods reported in E.ON AG’s and E.ON U.S. LLC’s financial statements. Upon reclassification to continuing operations E.ON would measure the disposal group at the lower of:
 - its carrying value before the disposal group was classified as discontinued operations, adjusted for any depreciation, amortization, or revaluations that would have been recognized had the disposal group not been classified as discontinued operations, or
 - its recoverable amount at the date of the subsequent decision not to sell.

E.ON would include any required adjustment to the carrying amount of a non-current asset that ceases to be classified as discontinued operations in income from continuing operations in the period in which the criteria for recording those operations as discontinued are no longer met.

E.ON U.S. LLC

**Response to the AG's Supplemental Request for Information
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Case No. 2007-00455

Question No. 72

Witness: Counsel

Q-72. Please reference the Response to OAG 104. Please provide a responsive answer and do not reference to another question where a non-responsive answer was provided. (In the event the Response to 1-87 is all inclusive of the materials, then so state.)

A-72. E.ON objects to this request on the basis that it is overbroad and unduly burdensome, requiring research with regard to documents prepared over more than a five year period. In addition, the request concerns documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

E.ON U.S. LLC

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Case No. 2007-00455

Question No. 73

Witness: Ralph Bowling

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